

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

|                              |   |                        |
|------------------------------|---|------------------------|
| JEREMY VAUGHN PINSON,        | ) |                        |
|                              | ) |                        |
| Plaintiff,                   | ) |                        |
|                              | ) |                        |
| vs.                          | ) | Case No. CIV-06-0003-F |
|                              | ) |                        |
| MIKE MULLIN, Warden, et al., | ) |                        |
|                              | ) |                        |
| Defendants.                  | ) |                        |

**ORDER**

Plaintiff, a state prisoner appearing pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. On January 4, 2006, Magistrate Judge Gary M. Purcell issued a Report and Recommendation, recommending that this case be transferred to the United States District Court for the Eastern District of Oklahoma pursuant to 28 U.S.C. § 1406(a) due to improper venue in this court.

The Report advised that any objection to the Report must be filed by January 24, 2006, and that failure to make timely objection to the Report waives the right to appellate review of both factual and legal issues contained in the Report.<sup>1</sup> Plaintiff has responded (doc. no. 9), stating that he “was unaware of the improper venue” problem and that “in the interests of justice [he] moves this honorable court...to dismiss the case without prejudice to refile in the proper venue so that the Plaintiff may refile in the Eastern District of Oklahoma.” Plaintiffs’ pleadings are liberally construed. In doing so, the court interprets plaintiff’s Response as a statement that he does not object to the findings and conclusions stated in the Report. Although plaintiff’s Response asks the court to dismiss the case, the Response also makes clear that

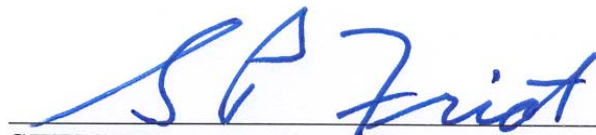
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<sup>1</sup>The court file does not reflect service on the defendant.

plaintiff intends to re-file this case in the Eastern District. In these circumstances, the court finds that it would be beneficial to plaintiff for this court to transfer this case to the Eastern District of Oklahoma, as proposed by the magistrate judge in his Report, rather than to dismiss the case and require plaintiff to re-file it as proposed by the plaintiff in his Response.

Accordingly, the court hereby **AFFIRMS**, **ACCEPTS**, and **ADOPTS** the Report in its entirety and **ORDERS** this case transferred to the Eastern District of Oklahoma for the reasons stated by the magistrate judge. Plaintiff is advised that the transfer will be effected immediately by the clerk of this court so that this action will continue to pend, but in the United States District Court for the Eastern District of Oklahoma rather than in the United States District Court for the Western District of Oklahoma.

Dated this 17<sup>th</sup> day of January, 2006.

  
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STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

06-0003p002(pub).wpd